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6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,

No. CR 04-00317 WHA

11 Plaintiff,

12 v.

**ORDER TO REGISTER AS A
DRUG OFFENDER**

13 CHARLES LEPP,

14 Defendant.
15 _____/

16 *Pro se* defendant Charles Lepp has refused to register as a drug offender, arguing that he
17 is not required to do so under California law, which exempts from registration requirements
18 offenses that, though punishable under federal law, would not have been punishable under
19 California law (Dkt. 479-1 ¶ 3; Cal. Health & Safety Code § 11590(b)). The California
20 Compassionate Care Act exempts from prosecution “primary caregiver[s] who possess or
21 cultivate[] marijuana for the personal medical purposes of the patient upon the written or oral
22 recommendation or approval of a physician.” Cal. Health & Safety Code § 11362.5(d).
23 Therefore, a defendant who came within the requirements of Section 11362.5 would not be
24 required to register as a drug offender, even if they had, through the same conduct, violated
25 federal law.

26 To qualify as a primary caregiver, however, one must have been “designated [as such]
27 by a qualified patient or by a person with an identification card” and “consistently assumed
28 responsibility for the housing, health, or safety of that patient or person.” Cal. Health & Safety
Code § 11362.7 “[A] defendant asserting primary caregiver status must prove at a minimum


1 that he or she (1) consistently provided caregiving, (2) independent of any assistance in taking
2 medical marijuana, (3) at or before the time he or she assumed responsibility for assisting with
3 medical marijuana.” *People v. Mentch*, 45 Cal. 4th 274, 283 (2008) *as modified* (Dec. 17,
4 2008).

5 Defendant has made no such showing. He merely asserts that he was cultivating
6 marijuana for 2,500 people, each of whom “possessed a valid medical recommendation from a
7 physician” (Dkt. No. 479-1 ¶ 2). This is not enough to meet the standard set forth in *Mentch*,
8 and does not exempt defendant from registration.

9 Pursuant to the terms of the judgment against him (Dkt. No. 278 at 4), defendant **SHALL**
10 **REGISTER** as a drug offender no later than **OCTOBER 2, 2017**.

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12 **IT IS SO ORDERED.**

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14 Dated: September 19, 2017.

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17 WILLIAM ALSUP
18 UNITED STATES DISTRICT JUDGE
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